



January 28, 2005

HOUSE BILL No. 1198

DIGEST OF HB 1198 (Updated January 26, 2005 11:26 am - DI 109)

Citations Affected: IC 20-1; IC 20-8.1; IC 20-10.1.

Synopsis: Student suspensions and expulsions. Requires schools to report the reasons for student suspensions and expulsions to the department of education. Authorizes an agreement for court assisted resolution of suspension and expulsion cases between a court having juvenile jurisdiction and a school corporation. Provides that the court shall either supervise the student or order the supervision of the student. Provides that the court and the school corporation may jointly determine which violations leading to suspension or expulsion are eligible for referral to the court. Provides that the school corporation and the court shall determine how the costs of supervising a student under the agreement shall be paid. Allows the school corporation to disclose the education records of a student who has been suspended or expelled to a court. Provides that (1) a student's appearance in court shall not be used against the student, the student's parent, or guardian in any subsequent court proceeding, (2) all records of a student's court appearance shall be expunged upon the student's completion of the court assisted resolution of suspension and expulsion program, and (3) a parent, guardian, or legal counsel has the right to be present during the student's court appearance.

Effective: July 1, 2005.

Thompson

January 6, 2005, read first time and referred to Committee on Education.
January 27, 2005, amended, reported — Do Pass.

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HB 1198—LS 6678/DI 71+



January 28, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1198

A BILL FOR AN ACT to amend the Indiana Code concerning education.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 20-1-1.1-5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. **(a)** The department
3 shall:

- 4 (1) perform the duties required by statute;
- 5 (2) implement the policies and procedures established by the
6 board;
- 7 (3) conduct analytical research to assist the state board of
8 education in determining the state's educational policy;
- 9 (4) compile statistics concerning the ethnicity and gender of
10 students in Indiana schools, including statistics for all information
11 that the department receives from school corporations on
12 enrollment, number of suspensions, and number of expulsions;
13 and
- 14 (5) provide technical assistance to school corporations.

15 **(b) The department, in compiling statistics under subsection**
16 **(a)(4), must categorize suspensions and expulsions by ethnicity,**
17 **gender, and cause as follows:**

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- (1) Alcohol.
- (2) Drugs.
- (3) Deadly weapons (other than firearms).
- (4) Handguns.
- (5) Rifles or shotguns.
- (6) Other firearms.
- (7) Tobacco.
- (8) Attendance.
- (9) Destruction of property.
- (10) Legal settlement (under IC 20-8.1-5.1-11).
- (11) Fighting (incident does not rise to the level of battery).
- (12) Battery (IC 35-42-2-1).
- (13) Intimidation (IC 35-45-2-1).
- (14) Verbal aggression or profanity.
- (15) Defiance.
- (16) Other.

(c) The department shall develop guidelines necessary to implement this section.

SECTION 2. IC 20-8.1-5.1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) The governing body of a school corporation must do the following:

- (1) Establish written discipline rules, which may include:
 - (A) appropriate dress codes; and
 - (B) if applicable, an agreement for court assisted resolution of school suspension and expulsion cases;
 for the school corporation.
- (2) Give general publicity to the discipline rules within a school where the discipline rules apply by actions such as:
 - (A) making a copy of the discipline rules available to students and students' parents; or
 - (B) delivering a copy of the discipline rules to students or the parents of students.

This publicity requirement may not be construed technically and is satisfied in any case when the school corporation makes a good faith effort to disseminate to students or parents generally the text or substance of a discipline rule.

(b) The superintendent of a school corporation and the principals of each school in a school corporation may adopt regulations establishing lines of responsibility and related guidelines in compliance with the discipline policies of the governing body.

(c) The governing body of a school corporation may delegate rule making, disciplinary, and other authority as reasonably necessary to

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1 carry out the school purposes of the school corporation.

2 (d) Subsection (a) does not apply to rules or directions concerning
3 the following:

4 (1) Movement of students.

5 (2) Movement or parking of vehicles.

6 (3) Day-to-day instructions concerning the operation of a
7 classroom or teaching station.

8 (4) Time for commencement of school.

9 (5) Other standards or regulations relating to the manner in which
10 an educational function must be administered.

11 However, this subsection does not prohibit the governing body from
12 regulating the areas listed in this subsection.

13 SECTION 3. IC 20-8.1-5.2 IS ADDED TO THE INDIANA CODE
14 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2005]:

16 **Chapter 5.2. Court Assisted Resolution of Suspension and**
17 **Expulsion Cases**

18 **Sec. 1. A superintendent and a court having juvenile jurisdiction**
19 **in the county may enter into a voluntary agreement (referred to as**
20 **the "agreement" in this chapter) for court assisted resolution of**
21 **school suspension and expulsion cases. The agreement may require**
22 **the court to supervise or provide for the supervision of an expelled**
23 **or suspended student who has been referred to the court by the**
24 **school corporation in accordance with the terms of the agreement.**

25 **Sec. 2. The agreement may require that a court do one (1) or**
26 **more of the following:**

27 (1) Establish a flexible program for the supervision of a
28 student who has been suspended or expelled.

29 (2) Supervise a student who has been suspended or expelled.

30 (3) Require a student who has been suspended or expelled to
31 participate in a school program (including an alternative
32 educational program) for the supervision of a student who has
33 been suspended or expelled.

34 **Sec. 3. (a) The agreement may require that a school corporation**
35 **do one (1) or more of the following:**

36 (1) Define the violation for which a student who has been
37 suspended or expelled shall be referred to the court.

38 (2) Refer a student who has been suspended or expelled for a
39 violation described in subdivision (1) to the court.

40 (3) Establish a school program (including an alternative
41 educational program) for the supervision of a student who has
42 been suspended or expelled.

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(b) If a school corporation enters into an agreement, the discipline rules adopted by the school corporation under IC 20-8.1-5.1-7 must specify the violations for which a student may be referred to the court under the agreement.

Sec. 4. The agreement must provide how the expenses of supervising a student who has been suspended or expelled are funded. A school corporation may not be required to expend more than the amount determined under IC 21-3-1.7-6.7(e) for each student referred under the agreement.

Sec. 5. A student shall be given a hearing before the court as soon as practicable following the student's referral to the court, after notice of the hearing has been provided to the student's parent.

Sec. 6. A hearing under this chapter is not a hearing to determine whether a student who has been suspended or expelled is a child in need of services. However, if a court determines that a student who has been suspended or expelled may:

- (1) be a child in need of services (as described in IC 31-34-1);
- or
- (2) have committed a delinquent act (as described in IC 31-37);

the court may notify the office of family and children or the prosecuting attorney.

Sec. 7. A student's appearance in court under this chapter shall not be used against the child or the child's parents or guardians in any subsequent court proceeding, including but not limited to any delinquency or child in need of services matter under IC 31.

Sec. 8. All records of the student's court appearance shall be expunged upon the student's completion of the out-of-school suspension or expulsion program.

Sec. 9. A parent or guardian has the right to be present during the student's court appearance, and, if the student or the student's parent or guardian has legal counsel, the student and the student's parent or guardian are entitled to have counsel present in court.

Sec. 10. Notwithstanding the terms of the agreement, a suspension, an expulsion, or a referral of a student who is a child with a disability (as defined in IC 20-1-6-1) is subject to the:

- (1) procedural requirements of 20 U.S.C. 1415; and
- (2) rules adopted by the Indiana state board of education.

SECTION 4. IC 20-10.1-22.4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) As used in this section, "juvenile justice agency" has the meaning set forth in

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1 IC 10-13-4-5.

2 (b) A school corporation or other entity to which the education
3 records privacy provisions of the federal Family Educational Rights
4 and Privacy Act (20 U.S.C. 1232g) apply may disclose or report on the
5 education records of a child, including personally identifiable
6 information contained in the education records, without the consent of
7 the child's parent, guardian, or custodian, under the following
8 conditions:

9 (1) The disclosure or reporting of education records is to a state
10 or local juvenile justice agency.

11 (2) The disclosure or reporting relates to the ability of the juvenile
12 justice system to serve, before adjudication, the student whose
13 records are being released.

14 (3) The juvenile justice agency receiving the information certifies,
15 in writing, to the entity providing the information that the agency
16 or individual receiving the information has agreed not to disclose
17 it to a third party, other than another juvenile justice agency,
18 without the consent of the child's parent, guardian, or custodian.

19 (c) For purposes of subsection (b)(2), a disclosure or reporting of
20 education records concerning a child who has been adjudicated as a
21 delinquent child shall be treated as related to the ability of the juvenile
22 justice system to serve the child before adjudication if the juvenile
23 justice agency seeking the information provides sufficient information
24 to enable the keeper of the education records to determine that the
25 juvenile justice agency seeks the information in order to identify and
26 intervene with the child as a juvenile at risk of delinquency rather than
27 to obtain information solely related to supervision of the child as an
28 adjudicated delinquent child.

29 **(d) A school corporation to which the education records privacy**
30 **provisions of the federal Family Educational Rights and Privacy**
31 **Act (20 U.S.C. 1232g) apply may disclose or report on the**
32 **education records of a child, including personally identifiable**
33 **information contained in the education records, without the**
34 **consent of the child's parent, guardian, or custodian, if the child**
35 **has been suspended or expelled and referred to a court in**
36 **accordance with an agreement for court assisted resolution of**
37 **suspension and expulsion cases under IC 20-8.1-5.2. The request**
38 **for the education records of a child by a court must be for the**
39 **purpose of assisting the child before adjudication.**

40 ~~(d)~~ (e) A school corporation or other entity to which the education
41 records privacy provisions of the federal Family Educational Rights
42 and Privacy Act (20 U.S.C. 1232g) apply that:

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- 1 (1) discloses or reports on the education records of a child,
- 2 including personally identifiable information contained in the
- 3 education records, in violation of this section; and
- 4 (2) makes a good faith effort to comply with this section;
- 5 is immune from civil liability.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred House Bill 1198, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 16, after "by" insert "**ethnicity, gender, and**".

Page 2, line 1, delete "Physical aggression" and insert "**Alcohol**".

Page 2, line 2, delete "Verbal aggression or profanity" and insert "**Drugs**".

Page 2, line 3, delete "Disruptive behavior" and insert "**Deadly weapons (other than firearms)**".

Page 2, line 4, delete "Defiance" and insert "**Handguns**".

Page 2, line 5, delete "Attendance" and insert "**Rifles or shotguns**".

Page 2, line 6, delete "Destruction of property" and insert "**Other firearms**".

Page 2, line 7, delete "Alcohol, drugs, and tobacco" and insert "**Tobacco**".

Page 2, line 8, delete "Weapons" and insert "**Attendance**".

Page 2, line 9, delete "Other" and insert "**Destruction of property**".

Page 2, between lines 9 and 10, begin a new line block indented and insert:

"(10) Legal settlement (under IC 20-8.1-5.1-11).

(11) Fighting (incident does not rise to the level of battery).

(12) Battery (IC 35-42-2-1).

(13) Intimidation (IC 35-45-2-1).

(14) Verbal aggression or profanity.

(15) Defiance.

(16) Other".

Page 2, between lines 11 and 12, begin a new paragraph and insert:
"SECTION 2. IC 20-8.1-5.1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) The governing body of a school corporation must do the following:

(1) Establish written discipline rules, which may include:

(A) appropriate dress codes; and

(B) if applicable, an agreement for court assisted resolution of school suspension and expulsion cases;

for the school corporation.

(2) Give general publicity to the discipline rules within a school where the discipline rules apply by actions such as:

(A) making a copy of the discipline rules available to students and students' parents; or

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(B) delivering a copy of the discipline rules to students or the parents of students.

This publicity requirement may not be construed technically and is satisfied in any case when the school corporation makes a good faith effort to disseminate to students or parents generally the text or substance of a discipline rule.

(b) The superintendent of a school corporation and the principals of each school in a school corporation may adopt regulations establishing lines of responsibility and related guidelines in compliance with the discipline policies of the governing body.

(c) The governing body of a school corporation may delegate rule making, disciplinary, and other authority as reasonably necessary to carry out the school purposes of the school corporation.

(d) Subsection (a) does not apply to rules or directions concerning the following:

- (1) Movement of students.
- (2) Movement or parking of vehicles.
- (3) Day-to-day instructions concerning the operation of a classroom or teaching station.
- (4) Time for commencement of school.
- (5) Other standards or regulations relating to the manner in which an educational function must be administered.

However, this subsection does not prohibit the governing body from regulating the areas listed in this subsection."

Page 2, line 21, delete "order" and insert "**provide for**".

Page 2, line 29, delete "Order" and insert "**Require**".

Page 3, between lines 22 and 23, begin a new paragraph and insert:

"Sec. 7. A student's appearance in court under this chapter shall not be used against the child or the child's parents or guardians in any subsequent court proceeding, including but not limited to any delinquency or child in need of services matter under IC 31.

Sec. 8. All records of the student's court appearance shall be expunged upon the student's completion of the out-of-school suspension or expulsion program.

Sec. 9. A parent or guardian has the right to be present during the student's court appearance, and, if the student or the student's parent or guardian has legal counsel, the student and the student's parent or guardian are entitled to have counsel present in court."

Page 3, line 23, delete "7" and insert "**10**".

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Renumber all SECTIONS consecutively.
and when so amended that said bill do pass.

(Reference is to HB 1198 as introduced.)

BEHNING, Chair

Committee Vote: yeas 11, nays 0.

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